

Basic information

2011/0263(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Regulation

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

Amended by [2015/0112\(COD\)](#)
See also [2011/0303\(NLE\)](#)

Subject

3.10.06.01 Fruit, citrus fruits
6.20.02 Export/import control, trade defence, trade barriers
6.20.03 Bilateral economic and trade agreements and relations
6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin

Geographical area

Costa Rica
El Salvador
Guatemala
Honduras
Nicaragua
Panama

Procedure completed

Key players

European
Parliament

Committee responsible	Rapporteur	Appointed
INTA International Trade	LEICHTFRIED Jörg (S&D)	11/10/2011
	Shadow rapporteur ZALBA BIDEGAIN Pablo (PPE) BEARDER Catherine (ALDE) KELLER Ska (Verts/ALE) MCCLARKIN Emma (ECR) SCHOLZ Helmut (GUE/NGL)	
Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
AGRI Agriculture and Rural Development	MATO Gabriel (PPE)	23/11/2011

	Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
	JURI Legal Affairs	VOSS Axel (PPE)	09/05/2012
Council of the European Union	Council configuration	Meetings	Date
	Transport, Telecommunications and Energy	3213	2012-12-20
European Commission	Commission DG	Commissioner	
	Trade and Economic Security	DE GUCHT Karel	

Key events			
Date	Event	Reference	Summary
03/10/2011	Legislative proposal published	COM(2011)0599 	Summary
12/10/2011	Committee referral announced in Parliament, 1st reading		
12/07/2012	Vote in committee, 1st reading		
17/07/2012	Committee report tabled for plenary, 1st reading	A7-0237/2012	Summary
12/09/2012	Debate in Parliament		
13/09/2012	Decision by Parliament, 1st reading	T7-0348/2012	Summary
13/09/2012	Results of vote in Parliament		
11/12/2012	Decision by Parliament, 1st reading	T7-0477/2012	Summary
20/12/2012	Act adopted by Council after Parliament's 1st reading		
15/01/2013	Final act signed		
16/01/2013	End of procedure in Parliament		
19/01/2013	Final act published in Official Journal		

Technical information	
Procedure reference	2011/0263(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2015/0112(COD) See also 2011/0303(NLE)
Legal basis	Treaty on the Functioning of the European Union TFEU 207-p2

Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	INTA/7/07318

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE483.540	12/03/2012	
Committee opinion	AGRI	PE480.630	21/03/2012	
Amendments tabled in committee		PE487.732	16/04/2012	
Specific opinion	JURI	PE489.729	01/06/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0237/2012	17/07/2012	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0348/2012	13/09/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0477/2012	11/12/2012	Summary
Council of the EU				
Document type		Reference	Date	Summary
Draft final act		00063/2012/LEX	15/01/2013	
European Commission				
Document type		Reference	Date	Summary
Legislative proposal		COM(2011)0599 	03/10/2011	Summary
Commission response to text adopted in plenary		SP(2013)111	13/02/2013	
For information		COM(2015)0131 	18/03/2015	Summary
Follow-up document		COM(2016)0073 	18/02/2016	
Follow-up document		COM(2017)0160 	05/04/2017	Summary

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 05/04/2017 - Follow-up document

This document is the third annual report from the Commission to the European Parliament and the Council on the application of Part IV of the Agreement establishing an association between the European Union and its Member States, of the one part, and Central America, on the other (2016).

It complies with the obligation laid down in Article 13 of Regulation (EU) No 20/2013 of the European Parliament and of the Council on the implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas provided for in the Agreement.

Overall trade development: on the basis of statistics presented by the Secretariat for Economic Integration of Central America (SIECA), trade flows between the countries of Central America and the rest of the world decreased by 6% between 2014 and 2015. On the other hand, trade between the EU and the rest of the world increased by 3.6% over the same period (Eurostat data).

In this broader context, **bilateral trade between the EU and Central America has held up relatively well:** total trade flows between the two regions declined only slightly (by 0.7%) to EUR 10.5 billion. The EU's trade balance with Central America showed a positive balance of **EUR 162 million in 2015 (after a deficit of EUR 853 million the previous year)**.

The year 2015 saw an overall increase of 22% in EU exports to Central America, while EU imports from Central America decreased by 16.8% in value terms. **On the whole, however, there are positive trends in trade flows between the EU and each Central American country**, with the exception of Costa Rica, with which trade has decreased because of the virtual disappearance of exports of office and telecommunications equipment carried out by a large computer multinational established in the country.

Overall, during this third year of implementation of the Agreement, **EU exports and imports to and from each of the 6 countries in the region increased by more than 20%** for 8 of the 12 possible combinations of imports / exports. This is also reflected in total trade flows, which increased by more than 20% in four of the six countries (and by more than 10% in the fifth). Costa Rica remains the exception in 2016 for specific internal reasons which are unlikely to persist in the years to come.

The main sectors accounting for imports from Central America in 2015 were as follows:

- vegetable products (51%),
- food, beverages and tobacco (11.1%),
- optical and photography instruments (8.1%).

The main export sectors from the EU to the region were:

- machinery and equipment (23.8%),
- products of the chemical or allied industries (22.6%),
- transport equipment (14.3%).

The main destinations for **EU exports to Central America** in 2015 were Costa Rica (25%), followed by Panama and Guatemala (24% and 22% respectively). The most exported products in 2015 were pharmaceuticals (11% of EU exports), followed by motor vehicles (7%) and steel structures (5%).

The increase in coffee exports, of 33% (from EUR 702 million to EUR 935 million), is also noteworthy. The region was able to overcome the losses caused by the coffee rust epidemic, which had a significant impact on coffee production and exports in 2014.

Key findings: some 3 years after the entry into force, the implementation process is proceeding at a steady pace and the institutional framework provided for in the agreement is working well.

Despite overall negative trends in the trade environment of Central America, trade between the EU and this region has been **relatively dynamic**.

The relocation of a Central American exporter, which was a significant player at the regional level (in the **computer components sector**), continued, as in 2014, to be felt. On the other hand, **the rest of Central America's exports to the EU increased by an average of 13.8% in 2015**, in particular thanks to the recovery in coffee exports, which rose by 34% 'last year.

Exports from the EU to Central America experienced similar growth, rising by 22% in 2015.

Despite this strong growth, the use of **existing preferences remains relatively weak in the case of EU exports to Central America**. However, it is significantly higher for EU imports from this region. **Additional communication efforts in the EU** may be needed to raise awareness of the benefits that the agreement provides to EU exporters. The Commission continues to take steps to raise economic operators' awareness of the possibilities offered by the agreement. Initiatives by Member States would also be relevant.

Given that **tariff quotas remain largely underutilised**, economic operators have every opportunity to further develop trade relations.

With regard to the **stabilisation mechanism for bananas**, total imports from Central America remained broadly stable, well below the cumulative trigger level. Although imports of bananas from Guatemala have exceeded the trigger threshold, it was not considered necessary to consider suspending the preferential customs duties as these imports were not considered to threaten the destabilisation of the EU market.

As regards **trade in services**, flows between the two regions fell slightly in 2014 to EUR 5.9 billion. Panama, Costa Rica and Guatemala remain the most important trading partners in the region.

The EU will have as a priority to continue to maintain and strengthen positive cooperation with Central America in order to achieve the common objective of ensuring the proper implementation of the agreement by all the actors concerned.

Governance and the next steps: the proper functioning of the bodies provided for in the agreement is essential for its proper implementation. They are the forums in which discussions can be initiated and solutions acceptable to all parties can be found on issues ranging from compliance with commitments under the different titles of the agreement (such as trade and sustainable development or public procurement) to market access problems and, in general, address implementation issues in a structured and mutually agreed manner.

More recently, efforts have focused on **cooperation on labour law and environmental standards** and, more broadly, on civil society participation, social dialogue, circular economy and value chains, themes which are part of the EU's current trade policy (in particular, all aspects of Corporate Social Responsibility).

The Commission will continue to participate in the implementation process with Central America and to address any concerns related to the implementation of the agreement raised by companies, citizens or other stakeholders.

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 11/12/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 579 votes to 42 with 59 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States on the one hand, and Central America on the other.

To recall, in accordance with Article 57(2) of Parliament's internal rules, the report was referred back to the committee responsible following the sitting of 13 September 2012. Parliament now adopts its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. They amend the Commission proposal as follows:

Protection of bananas originating in the EU: appropriate safeguard mechanisms are created to prevent serious harm to the Union banana-growing sector which is of great importance to the agricultural producers of many of the outermost regions of the Union. The limited ability of those regions to diversify, owing to their natural characteristics, makes the banana sector particularly vulnerable. It is therefore essential to create effective mechanisms to address preferential imports from third countries concerned, **in order to guarantee that Union banana production is maintained under the best possible conditions**, as it is a crucial employment sector in certain areas, especially in the outermost regions.

Monitoring: it is provided that the Commission shall monitor the evolution of import statistics of bananas from Central American countries. For that purpose, it shall cooperate and exchange data on a regular basis with Member States and the Union industry. Upon a duly justified request by the industries concerned, **the Commission may consider extending the scope of the monitoring to other sectors**. The Commission shall monitor the observance by Central American countries of the social and environmental standards laid down in the Agreement.

Initiation of proceedings by the Commission: a proceeding shall be initiated upon request by a Member State, by any legal person or any association not having legal personality acting on behalf of the Union industry, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient prima facie evidence, as determined on the basis of factors referred to in the text to justify such initiation notably serious harm to the EU market. A proceeding may also be initiated in the event that there is a surge of imports concentrated in one or several Member States, **or outermost regions**.

Safeguard measures: specific safeguard provisions will be available in case the product in question is imported in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of any of the outermost regions.

Prior surveillance measures: the Commission may adopt prior surveillance measures in regard to imports from a Central American country where there is a **surge of imports of bananas concentrated in one or several Member States, or in one or several of the Union's outermost regions**. Provisional (or definitive) safeguard measures may then be put in place to protect the EU market.

Commission report: the draft Regulation provides that The Commission shall submit an annual report to the European Parliament and to the Council on the application, implementation and fulfilment of obligations of the Agreement regarding social and environmental issues and of this Regulation. The report shall include information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures and the termination of investigations and proceedings without measures. It shall include information on the activities of the various bodies responsible for monitoring the implementation of the Agreement and on activities with civil society advisory groups. The report shall set out a summary of the statistics and the evolution of trade with Central American countries and shall include up-to-date statistics on banana imports from Central American countries.

Information for the European Parliament: the European Parliament may, within one month of submission of the Commission's report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of the Regulation.

Stabilisation mechanism for bananas: the text provides that for bananas originating in Central America as described, a stabilisation mechanism shall apply until **31 December 2019**.

Parliament stated that the application of the stabilisation mechanism for bananas shall under no circumstances prevent the activation of measures included in the bilateral safeguard clause. From 1 January 2020, the general bilateral safeguard mechanism, including the special provisions for outermost regions, remains applicable. The mechanism entails a possibility of suspending swiftly for a maximum period of three months the preferential customs duties when imports exceed a defined annual trigger import volume. The decision whether or not to apply the stabilisation mechanism for bananas will take into account the stability of the Union market for bananas.

When deciding whether measures regarding the stabilisation mechanism should be applied, the Commission shall take into consideration the impact of the imports concerned on the situation of the Union market for bananas. That examination shall include factors such as: effect of the imports concerned on the Union price level, development of imports from other sources, overall stability of the Union market. The draft regulation makes specific provision for the technical procedural rules for the implementation of this provision. The decision whether or not to apply the stabilisation mechanism for bananas should take into account the stability of the Union market for bananas.

In any event, provisions on safeguard measures and the application of the stabilisation mechanism for shall not be applied simultaneously.

Joint declaration: in a declaration, the European Parliament and the Commission agree on the importance of close cooperation in monitoring the implementation of environmental by the countries in question. Accordingly, upon request by the responsible committee of the European Parliament, the Commission shall report to it on any specific concerns relating to the implementation by Central American countries of their commitments on trade and sustainable development.

If the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions for ex-officio initiation are fulfilled. If the Commission considers that the conditions are not fulfilled, it will present a report to the responsible committee of the European Parliament including an explanation of all the factors relevant to the initiation of such an investigation.

At the same time, the Commission adopted a unilateral declaration welcoming the first reading and will attach particular importance to the effective implementation of commitments on trade and sustainable development in the Agreement. After the expiry of the Banana Stabilisation Mechanism on 31 December 2019, the Commission will assess the situation of the Union market for bananas and the state of Union banana producers. The Commission will report its findings to the European Parliament and the Council and include a preliminary assessment of the functioning of the 'Programme d'Options Spécifiques à l'Éloignement et l'Insularité' (POSEI) in preserving the banana production in the Union.

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 15/01/2013 - Final act

PURPOSE: to incorporate in European Union law the safeguard clause and the Stabilisation Mechanism foreseen in the Association Agreement with Central America.

LEGISLATIVE ACT: Regulation (EU) No 20/2013 of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, on the other.

BACKGROUND: a [trade agreement between the European Union and its Member States, on the one hand, and Central America, on the other](#) (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) was signed on 29 June 2012 and received the consent of the European Parliament on 11 December 2012.

The Agreement includes a **bilateral safeguard clause** that provides for the possibility of reinstating the most favoured nation (MFN) customs duty rate when, as a result of a trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the Union industry producing a competitive product.

Furthermore, the Agreement also incorporates a **Stabilisation Mechanism for Bananas** according to which, until 1 January 2020, preferential customs duties can be suspended when a certain annual import volume is reached.

In order for these measures to be operational, the safeguard clause and the Stabilisation Mechanism needed to be incorporated in EU, and the procedural aspects of their application as well as the rights of interested parties needed to be specified.

That is the objective of this Regulation.

CONTENT: this Regulation incorporates in European Union law the safeguard clause and the Stabilisation Mechanism for the banana sector foreseen in the trade agreement between the EU, on the one hand, and Central America, on the other.

1. Imposition of safeguard measures: a safeguard measure may be imposed where a product originating in a Central American country is, as a result of the reduction or the elimination of the customs duties on that product, being imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under such conditions as to **cause or threaten to cause serious injury to the Union industry.**

The Regulation stipulates the various forms that the envisaged safeguard measures may take, i.e. mainly modifications in the rates of customs duties applied to the product in question (suspension of a further reduction of the rate of customs duty or an increase in the rate of customs duty, depending on the situation).

Statistical monitoring: the Commission shall monitor the evolution of import statistics of bananas from Central American countries. For that purpose, it shall cooperate and exchange data on a regular basis with Member States and the Union industry. Upon a duly justified request by the industries concerned, the Commission may consider extending the scope of the monitoring to other sectors. The European Parliament shall be kept regularly informed of the trend of these statistics.

The Commission shall monitor the observance by Central American countries of the social and environmental standards laid down in the Agreement.

Initiation of proceedings: the Commission shall open a procedure upon request by a Member State, any legal person or any association acting on behalf of the Union industry, or on its own initiative, if it is apparent to the Commission that there is sufficient *prima facie* evidence to justify initiating proceedings and, in particular, serious disturbance in the Community market. A procedure may also be initiated in the event that there is a surge of imports concentrated **in one or several Member States, or outermost regions.** Details concerning the procedure are contained in the Regulation.

Investigations: following the initiation of the proceeding, the Commission shall commence an investigation. The investigation shall, where possible, be concluded within **six months of its initiation.** That time limit may be extended by a further period of three months in exceptional circumstances such as the involvement of an unusually high number of interested parties or complex market situations. In the investigation, the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Union industry.

Provision is made for a procedure to allow interested parties to make known their views in writing and submit information. If the investigation concludes that the market has experienced serious disturbance, safeguard measures may be launched.

Safeguard clause: specific safeguard provisions are provided for in case the product in question is imported in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of any of the EU's outermost regions.

The safeguard clause will be applied in 2 stages:

(a) Prior surveillance measures: the Commission may adopt prior surveillance measures in regard to imports from a Central American country in particular where there is a **surge of imports of bananas concentrated in one or several Member States, or in one or several of the Union's outermost regions.** These measures would be of a limited duration;

(b) Provisional safeguard measures: in a second stage, provisional safeguard measures shall be applied in critical circumstances where a delay would cause damage which would be difficult to repair, pursuant to a preliminary determination that there is sufficient *prima facie* evidence that imports of a product originating in a Central American country have increased suddenly. The Commission shall adopt provisional safeguard measures in accordance with the advisory procedure referred to in the Regulation, including in cases of imperative grounds of urgency. Provisional safeguard measures shall not apply for more than 200 calendar days.

Imposition of definitive measures: where the facts as finally established show that conditions regarding a serious threat to Union industry are met, the Commission shall enter into consultations with the authorities of the Central American country/countries affected. If no satisfactory solution has been reached within 30 days, the Commission may adopt a decision imposing definitive safeguard measures.

Technical provisions are also laid down in regard to the termination of an investigation without measures.

Duration and review of safeguard measures: a safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury to Union industry and to facilitate adjustment. That period shall not exceed **two years**, unless it is extended under circumstances described in the Regulation (i.e. to prevent or remedy serious injury to Union industry). In any event, any extension must be preceded by an investigation and the total duration of the safeguard measure cannot exceed **four years.**

Transparency measures and confidentiality: provision is made to ensure the confidentiality of information received pursuant to the Regulation. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

Commission report: the Regulation provides that the Commission shall submit an annual report to the European Parliament and to the Council on the application, implementation and fulfilment of obligations of the Agreement regarding social and environmental issues and of this Regulation. The report shall include information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures and the termination of investigations and proceedings without measures. It shall include information on the activities of the various bodies responsible for monitoring the implementation of the Agreement and on activities with civil society advisory groups.

The report shall set out a summary of the statistics and the evolution of trade with Central American countries and shall include up-to-date statistics on banana imports from Central American countries.

2. Stabilisation mechanism for bananas: the Commission shall make use of the stabilisation mechanism for bananas in order to avoid a threat of serious deterioration or a serious deterioration for producers in the outermost regions in the Union. This mechanism applies to bananas originating in Central America (fresh bananas, excluding plantains) and which are listed under category 'ST' in the EU's Tariff Elimination Schedule, in the Annex of the Agreement. It shall apply **until 31 December 2019**.

A separate **annual trigger import volume** is set for imports of these products, as indicated in the table in the Annex to the Regulation. Once the trigger volume for a Central American country is met during the corresponding calendar year, the **Commission shall adopt an implementing act**, in accordance with the advisory procedure, by which it may either temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year. The decision as to whether the stabilisation measures for bananas should be applied shall take into consideration the stability of the Union market for bananas.

Where the Commission applies these measures, it shall immediately enter into consultations with the affected Central American country or countries to analyse and evaluate the situation on the basis of available factual data.

It should be noted that from 1 January 2020, the general bilateral safeguard mechanism, including the special provisions for outermost regions, remains applicable.

N.B. the Regulation includes a joint declaration of Parliament and the Council on the need for close cooperation in monitoring the implementation of the Agreement and this Regulation.

ENTRY INTO FORCE: the Regulation enters into force on 22 January 2013. It shall apply from the date of application of the EU-Central America Agreement, as provided for in Article 353 thereof. A notice shall be published in the Official Journal of the European Union specifying the date of application of the Agreement.

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 18/03/2015

The Commission presented a report on the Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement.

The EU signed the Association Agreement with Central America on 29 June 2012. Part IV of the Agreement, covering Trade, has been provisionally applied as from 1 August 2013 with Nicaragua, Honduras and Panama, 1 October 2013 with El Salvador and Costa Rica and finally as from 1 December 2013 with Guatemala.

This report contains:

- an update on the implementation of the [Agreement](#), in particular an overall assessment of trade flows;
- information as regards the implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement, in accordance with Regulation (EU) No 20/2013 of the European Parliament and of the Council.

Information on the application of the Agreement: the Commission considers that it is too early to make any conclusive assessment of the impact of the trade part of the Agreement.

Despite the negative global environment including the overall decrease in global demand in 2014, **EU trade flows with Central America remained substantially stable** and saw significant increases in specific sectors. EU trade flows with most Central American countries increased except with Panama.

Moreover, the **relatively low utilisation rate of the available tariff rate quotas** points to the possibility to further increase bilateral trade flows between the two regions.

It has been agreed with Central America to carry out a **technical review of the statistical methods** and data on trade flows which should allow a more detailed analysis in the future.

Bananas: the Commission has been monitoring the evolution of imports of bananas from Central American countries to assess if the conditions set out in Regulation (EU) NO 20/2013 are met to initiate a safeguard investigation or introduce prior surveillance measures.

During the first year of implementation of the Agreement, the Commission neither initiated nor received any requests to initiate a safeguard investigation or to introduce prior surveillance measures as the conditions set out in the Regulation to initiate a safeguard investigation or introduce prior surveillance measures were never reached.

The report noted that imports from Central American countries remained overall stable and below the established trigger imports, so that it was unnecessary to consider initiating any suspension of preferential customs duties.

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 03/10/2011 - Legislative proposal

PURPOSE : incorporation in the European Union law of the safeguard clause and the Stabilisation Mechanism foreseen in the Association Agreement with Central America.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

BACKGROUND : on 23 April 2007 the Council authorised the Commission to open negotiations with certain countries of Central America, which resulted in a Association Agreement with Central America. The Agreement was initialled on 22 March 2011.

The Agreement includes a **bilateral safeguard clause** that provides for the possibility of reinstating the MFN customs duty rate when, as a result of a trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the Union Industry producing the like or directly competitive product.

Furthermore, the Agreement also incorporates a **Stabilisation Mechanism for Bananas** according to which, until 1 January 2020, preferential customs duties can be suspended when a certain annual import volume is reached.

In order for these measures to be operational, the safeguard clause and the Stabilisation Mechanism should be incorporated in EU, and the procedural aspects of their application as well as the rights of interested parties need to be specified. This is the purpose of the proposal.

IMPACT ASSESSMENT : no impact assessment was undertaken.

LEGAL BASIS : Article 207(2) of the Treaty on the Functioning of the EU.

CONTENT : this proposal for a Regulation of the European Parliament and of the Council constitutes the legal instrument for the implementation of the safeguard clause and the Stabilisation Mechanism of the EU- Central America Association Agreement.

1) Principles on the imposition of safeguard measures: a safeguard measure may be imposed in accordance with the Regulation where a product originating in a Central American country is, as a result of the reduction or the elimination of the customs duties on that product, being imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under **such conditions as to cause or threaten to cause serious injury to the Union industry** producing a like or directly competitive product.

Safeguard measures may take one of the following forms:

- a suspension of further reduction of the rate of customs duty on the product concerned provided for in the Schedule of the EU Party set out in Annex I (Elimination of Customs Duties) to the Agreement;
- an increase in the rate of customs duty on the product concerned to a level which does not exceed the lesser of: (i) the most-favoured-nation ("MFN") applied rate of customs duty on the product in effect at the time the measure is taken; or (ii) the MFN applied rate of customs duty on the product in effect on the day immediately preceding the date of entry into force of the Agreement.

None of these measures shall be applied within the limits of the preferential duty free tariff quotas granted by the Agreement.

Initiation of proceedings: an investigation shall be initiated upon request by a Member State, by any legal person or any association not having legal personality, acting on behalf of the Union industry, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient prima facie evidence, as determined on the basis of factors referred to above, to justify such initiation. The request to initiate an investigation shall generally contain the following information: the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

An investigation may also be initiated in the event that there is a surge of imports concentrated in one or several Member States, provided that there is sufficient prima facie evidence that the conditions for initiation are met.

The proposal makes provision for the procedures for initiating an investigation and the conditions under which the latter may be done.

Investigation: following the initiation of the proceeding, the Commission shall commence an investigation, which shall, whenever possible, be concluded **within six months of its initiation**. That time limit may be extended by a further period of three months in exceptional circumstances such as the involvement of an unusually high number of parties, or complex market situations.

Prior surveillance measures: where the trend in imports of a product originating in a Central American country is such that it could lead to a serious threat to the Union market, imports of that product may be subject to prior surveillance measures. Such measures shall be adopted by the Commission in accordance with the advisory procedure referred to in the text. Prior surveillance measures shall have a limited period of validity.

Imposition of provisional safeguard measures: provisional safeguard measures shall be applied in critical circumstances where a delay would cause damage which would be difficult to repair, pursuant to a

preliminary determination that there is sufficient prima facie evidence that imports of a product originating in a Central American country have increased as the result of the reduction or elimination of a customs duty. Provisional measures shall be adopted by the Commission in accordance with the advisory procedure, including on imperative grounds of urgency. Provisional measures shall be shall not apply for more than **200 days**.

Imposition of definitive measures: where the facts as finally established show that conditions regarding a serious threat to Union industry are met, the Commission shall refer the matter to the Association Committee. Where no recommendation has been made by the Association Committee or no other satisfactory solution has been reached within 30 days of the referral, the Commission may adopt a decision imposing definitive safeguard measures.

The text also contains provisions on the termination of investigation and proceeding without measure.

Duration and review of safeguard measures: it is provided that a safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury and to facilitate adjustment. That period shall not exceed two years, and may exceptionally be extended by up to two years provided it is determined that the safeguard measure continues to be necessary to prevent or remedy serious injury and that there is evidence that the Union industry is adjusting.. The **total duration of a safeguard measure may not exceed four years**, including any provisional measure.

Confidentiality and transparency: the text contains provisions to ensure the confidentiality of information received pursuant to the Regulation. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

At the same time, when initiating an investigation, provisions are made to ensure transparency, and interested parties and representatives of the Central American country concerned may inspect all information made available to the Commission, which shall ensure that all data and statistics which are used for the investigation are available, comprehensible, transparent and verifiable. There are other provisions to ensure transparency, such as such as the Commission's obligation to ensure password-protected online access to the non-confidential file through which all information which is not confidential shall be disseminated. The European Parliament shall be granted access to this online platform.

2) **Stabilisation Mechanism for Bananas:** for bananas originating in Central America (fresh Bananas, excluding plantains) and listed under category "ST" in the Schedule of the EU Party set out in Annex I (Elimination of Customs Duties) to the Agreement, a stabilisation mechanism shall apply **until 1 January 2020**.

A **separate annual trigger import volume** is set for imports from Central American country for products as indicated in the table in the Annex to the Regulation. The importation of these products at the preferential customs duty rate shall, in addition to the proof of origin established under Annex III (Definition of the concept of "originating products" and methods of administrative co-operation) of the Agreement with Central America, be subject to the presentation of an **export certificate** issued by the competent authority of the Central American country from which the products are exported.

Once the trigger volume is met during the corresponding calendar year, the Commission may temporarily suspend the preferential customs duty during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year.

In case the Commission decides to suspend the preferential customs duty applicable, the Commission shall apply the lesser of: (i) the base rate of customs duty or (ii) the MFN rate of duty that in application at the time such action is taken.

In case the Commission applies these actions, it shall immediately enter into consultations with the affected country to analyse and evaluate the situation on the basis of factual available data.

These measures may be applicable only during the period ending on 31 December 2019.

BUDGETARY IMPLICATIONS : the proposal has no implications for the EU budget.

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 17/07/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Jörg LEICHTFRIED (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States on the one hand, and Central America on the other.

The committee recommends that the European Parliament's position in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Monitoring: Members specify that the Commission shall monitor the evolution of import and export statistics of Central American products, in particular in sensitive sectors including bananas, and it may consider extending the scope of the monitoring to other sectors. The Commission shall present an **annual monitoring report** on updated statistics on imports of products in the sensitive sectors and those sectors to which monitoring has been extended, including bananas, and will do its utmost to **include the employment rates and working conditions for banana producers** in Central America to avoid all forms of dumping.

Members add that the Commission shall closely monitor the evolution of statistics for banana imports from Central America. **Employment rates and working conditions, as well as organic production and consumption and Fair-Trade flows shall be part of the monitoring process.**

The Commission's investigation: this may look at factors which are causing or may have caused serious injury, or threaten to cause serious injury to the Union industry, such as meeting the trigger volumes described within the framework of the stabilisation mechanism for bananas included in Chapter II of the Regulation.

European Parliament recommendation: in the event that the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions under the Regulation for ex-officio initiation are fulfilled.

Prior surveillance measures: these may be introduced in the event that there is a surge of imports of products falling into sensitive sectors concentrated in one or several Member States or outermost regions.

Report: the Commission shall present an annual report on the application and implementation of the Agreement and of the Regulation to the European Parliament. The report shall include:

- information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures, the termination of investigations without measures, and the activities of the various bodies responsible for monitoring the implementation of the Agreement;
- up-to- date statistics on banana imports from Central America and their direct and indirect impact on the development of employment and working conditions in the Union production sector;
- the fulfilment of obligations under Title VIII "Trade and Sustainable development" of Part IV of the Agreement and with action taken in that respect by Central America ;
- a summary of the statistics and the evolution of trade with Central America.

ILO standards: the committee stressed the importance of adhering to the international labour standards drawn up and supervised by the International Labour Organisation.

Ad hoc meeting with Parliament: the European Parliament may, within one month from the Commission presenting the report, invite the Commission to an ad hoc meeting of its responsible committee to explain any issues related to the implementation of the Regulation.

Lastly, the committee stated that the application of the stabilisation mechanism for bananas shall **under no circumstances prevent the activation of measures included in the bilateral safeguard clause.**

EU/Central America Association Agreement: implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas

2011/0263(COD) - 13/09/2012 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted **amendments** to the proposal for a Regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States on the one hand, and Central America on the other.

The matter was referred back to the committee responsible and the vote was postponed until a subsequent plenary session.

The main amendments adopted by Parliament are as follows:

Monitoring: Members specify that the Commission shall monitor the evolution of import and export statistics of Central American products, in particular in sensitive sectors including bananas, and it may consider extending the scope of the monitoring to other sectors. The Commission shall present an **annual monitoring report** on updated statistics on imports of products in the sensitive sectors and those sectors to which monitoring has been extended, including bananas, and will do its utmost to include **the employment rates and working conditions for banana producers** in Central America to avoid all forms of dumping.

Members add that the Commission shall closely monitor the evolution of statistics for banana imports from Central America. **Employment rates and working conditions, as well as organic production and consumption and Fair-Trade flows shall be part of the monitoring process.**

Furthermore, upon a duly reasoned request from the European Parliament, a Member State, the Union industry, any interested party or on its own initiative, the Commission shall pay particular attention to any noticeable increase in banana imports from Central America and, if appropriate, shall take prior surveillance measures.

The Commission's investigation: this may look at factors which are causing or may have caused serious injury, or threaten to cause serious injury to the Union industry, such as meeting the trigger volumes described within the framework of the stabilisation mechanism for bananas included in Chapter II of the Regulation.

European Parliament recommendation: in the event that the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions under the Regulation for ex-officio initiation are fulfilled.

Parliament adds that when appropriate, the European Parliament may consult and source analysis from independent bodies, such as trade unions, the ILO, academics or human rights organisations.

Prior surveillance measures: these may be introduced in the event that there is a surge of imports of products falling into sensitive sectors concentrated in one or several Member States or outermost regions.

Report: the Commission shall present an annual report on the application and implementation of the Agreement and of the Regulation to the European Parliament. The report shall include:

- information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures, the termination of investigations without measures, and the activities of the various bodies responsible for monitoring the implementation of the Agreement;
- up-to- date statistics on banana imports from Central America and their direct and indirect impact on the development of employment and working conditions in the Union production sector;
- the fulfilment of obligations under Title VIII "Trade and Sustainable development" of Part IV of the Agreement and with action taken in that respect by Central America;
- a summary of the statistics and the evolution of trade with Central America.

Ad hoc meeting with Parliament: the European Parliament may, within one month from the Commission presenting the report, invite the Commission to an *ad hoc* meeting of its responsible committee to explain any issues related to the implementation of the Regulation.

Respect for ILO standards: Parliament stresses the importance of complying with the international labour standards drawn up and supervised by the International Labour Organisation because defending decent work for all should be an absolute priority and bananas imported from Central America should be produced under decent social and environmental conditions and for a fair wage to ensure that Union producers are not the victims of dumping.

Stabilisation mechanism for bananas: Parliament stated that the application of the stabilisation mechanism for bananas shall under no circumstances prevent the activation of measures included in the bilateral safeguard clause.

Procedure applicable when stabilisation mechanism is triggered: once the trigger volume for Central America is met during the corresponding calendar year, the Commission shall, in accordance with the examination procedure referred to in the proposal, temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year. The text states that only reasons of *force majeure* shall prevent the suspension from being imposed.